

THE HOUSE
OF LORDS
BRIEFING

THE
CONSTITUTION
COMMITTEE



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The United Kingdom's constitution

In most modern democracies, the term 'constitution' refers to a document that sets out the legal structure for the organs of state, rules for the conduct of government and the rights and duties of the citizens of the state. A single document of this kind does not exist in the UK, but nonetheless the term 'constitution' refers to the principal organs of the state (the Crown, Parliament, the Government and the courts) and to the fundamental principles which govern their relations with each other and with UK citizens.

The UK constitution is derived from a combination of written statute, common law and unwritten convention. As a result, constitutional change in the UK occurs through the piecemeal, sometimes inadvertent, alteration of separate texts and traditions. Moreover, the authority of Parliament to legislate for the UK includes power to make changes in laws affecting the constitution.

The Committee

Over past decades many new laws have had a direct impact on the UK constitution—joining the European Union, devolution in Scotland, Wales and Northern Ireland and reform of the House of Lords. Not all the consequences of such changes have been foreseen. Against this background, the Constitution Committee was first appointed on 8 February 2001 to keep a closer eye on the impact specific legislation might have on the constitution as a whole.



Remit and functions

The Constitution Committee's remit is **'to examine the constitutional implications of all Public Bills coming before the House; and to keep under review the operation of the constitution'**. For this purpose, the Committee has defined the constitution as 'the set of laws, rules and practices that create the basic institutions of the state, and its component and related parts, and stipulate the powers of those institutions and the relationship between the different institutions and between those institutions and the individual'.

The Committee's remit is broad because, in the absence of a written constitution, Parliament may legislate on any matter without observing particular procedural requirements. Any Public Bill may have constitutional implications, whether these arise directly from new government policies or indirectly from other changes in the law.

The Committee has two functions:

- examining Public Bills for matters of constitutional significance; and
- investigating wider constitutional issues.

Membership

The Committee consists of 12 Members. It draws on the constitutional expertise in the House of Lords: it currently includes a former Lord Chief Justice, two former Attorneys General, a former Leader of the House of Lords, three former ministers, academics and those with business and commercial expertise.



The Constitution Committee hearing evidence from the Lord Chancellor and Secretary of State for Justice (formerly for Constitutional Affairs).

The process of scrutiny

The function of the Committee is not to resist constitutional change but to ensure that when such change takes place through legislation this occurs as the result of a conscious decision of Parliament, reached where possible after informed debate. The Committee, assisted by a legal adviser, considers the constitutional implications of all Public Bills introduced to the House of Lords.

How it works

When the Committee looks at a Bill it asks if it raises issues of principle affecting a principal part of the constitution. If the Committee thinks it does, it may request information from the Minister responsible for the Bill or seek advice more widely. The Minister may be invited to give evidence to the Committee in person, or further letters may be exchanged between the Committee and the Minister. Where appropriate, the Committee publishes a report on the Bill in order to inform the deliberations of the House.

Some Bills attract the attention of the Committee by reason of their subject matter—for instance, Bills dealing with the relationship between the executive, the judiciary and the courts; the electoral system and referendums; the relationship between central and local government; or devolution to Scotland, Wales and Northern Ireland. Where a Bill does not have an obvious constitutional content, the Committee may bring to the notice of the House any significant incidental implications that the Bill may have, so that such changes do not occur inadvertently.

Bills

The Committee does not form a view on the merits of a Bill, but considers whether it makes a significant change in the system of government or in the relations between the state and the individual, or is consistent with similar legislation in other areas of government. For example, in the 2005-06 session, the Committee pointed out that the Legislative and Regulatory Reform Bill would fundamentally enhance the Government's power to push through new laws without a parliamentary vote. After the Committee raised its concerns, parliamentary and public pressure forced the Government to redraft the Bill.

Where a Bill stems from the UK's international obligations, the Committee examines the manner in which Parliament is being asked to implement them.

Before examining Public Bills the Committee checks what work other parliamentary committees, such as the Joint Committee on Human Rights and the Delegated Powers and Regulatory Reform Committee, are carrying out. This avoids unnecessary duplication.

Scrutiny of draft Bills—pre-legislative scrutiny

The Committee sometimes looks at Bills in draft form. Where pre-legislative scrutiny takes place, the Committee may give its views on the draft Bill to the committee charged with conducting such scrutiny, but the Committee will also consider at a later stage whether the substantive Bill, when published, still raises significant issues.

Investigative reports

Part of the Committee's remit is 'to keep under review the operation of the constitution'. It fulfils this principally by carrying out investigative inquiries into wider constitutional issues. Once the Committee has chosen a topic for inquiry it engages a specialist adviser—an external expert in the field—and written submissions are invited (a 'Call for Evidence').

How inquiries work

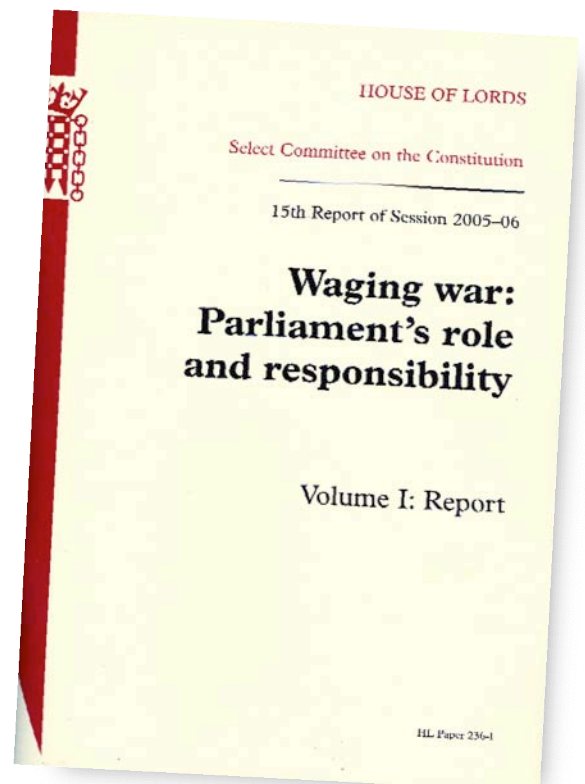
The Committee will usually take oral evidence not only from some of the authors of written submissions but also from a range of other witnesses, including government ministers. Following extensive deliberations, the Committee publishes a report based on all the evidence received. This is technically a report to the House of Lords, but such reports usually contain recommendations aimed principally at government. The Government are obliged to respond to the report in writing, saying what action they propose to take or giving reasons why they disagree with the Committee's conclusions. The report is usually debated in the House after the Government have published their response.

Inquiry reports include:

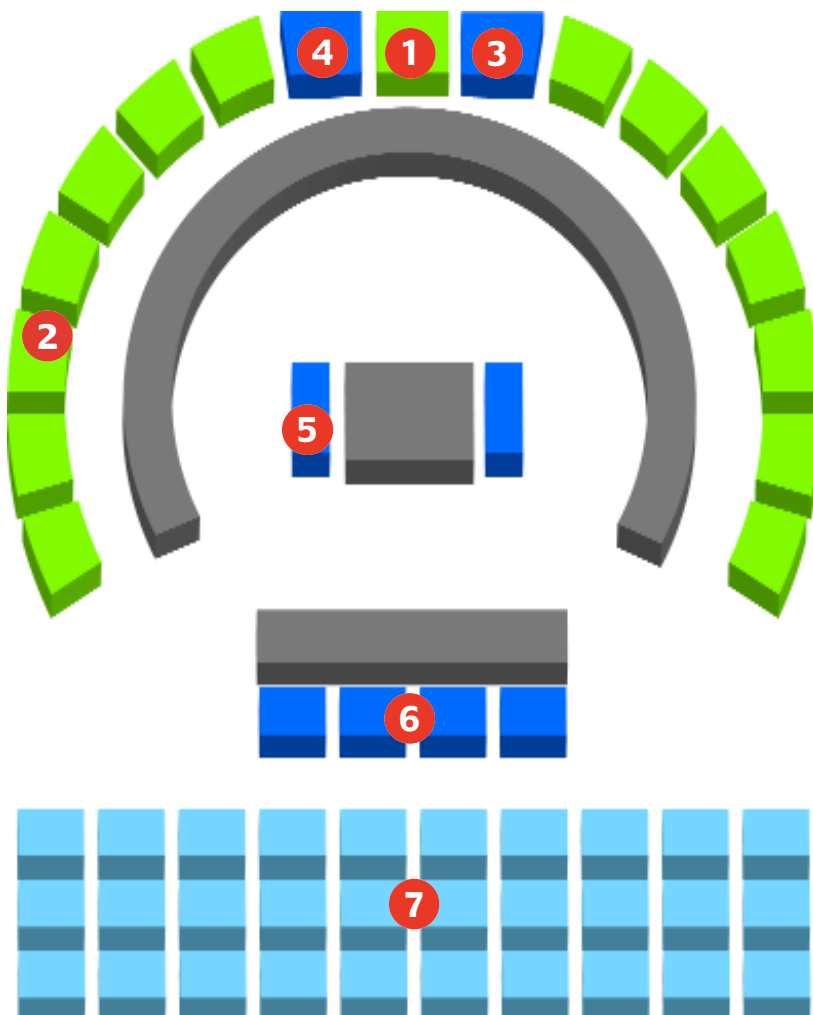
- Relations between the Executive, the Judiciary and Parliament (July 2007)
- Waging War: Parliament's Role and Responsibility (July 2006)
- Devolution: Its Effect on the Practice of Legislation at Westminster (November 2004)
- Parliament and the Legislative Process (October 2004)
- The Regulatory State: Ensuring its Accountability (May 2004)
- The Draft Constitutional Treaty for the European Union (October 2003)
- Devolution: Inter-institutional Relations in the United Kingdom (January 2003)
- Changing the Constitution: The Process of Constitutional Change (February 2002)

Other activities

The Committee takes evidence annually from the Lord Chancellor and Secretary of State for Justice (formerly for Constitutional Affairs) to clarify the Government's position on a range of constitutional issues—including the restructuring of government departments, the proposal for a supreme court and devolution. The Committee also takes evidence from the Lord Chief Justice of England and Wales each year.



Layout for a committee sitting



- 1 Chairman
- 2 Members
- 3 Clerk
- 4 Specialist adviser
- 5 Transcribers
- 6 Witnesses
- 7 Public seating

Committee meetings are open to the public. Forthcoming meetings are listed in the weekly bulletin (see below).

Contact the Constitution Committee



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www.parliament.uk/hlconstitution for details of:

- reports and inquiries (past and present)
- written evidence and transcripts of oral evidence
- press notices
- membership
- future meetings.

The weekly bulletin:



Lists:

- inquiries
- meetings
- reports
- contacts.



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